

AMENDED IN ASSEMBLY JUNE 30, 2004

AMENDED IN ASSEMBLY JUNE 9, 2004

AMENDED IN SENATE MAY 25, 2004

AMENDED IN SENATE MAY 11, 2004

AMENDED IN SENATE APRIL 12, 2004

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**SENATE BILL****No. 1492**

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**Introduced by Senator Dunn**

February 19, 2004

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An act to add Chapter 6.5 (commencing with Section 56.32) to Part 2.6 of Division 1 of the Civil Code, relating to confidential information.

LEGISLATIVE COUNSEL'S DIGEST

SB 1492, as amended, Dunn. Confidential information.

Existing law prohibits a health care provider, health care service plan, or contractor from disclosing medical information regarding any patient of the health care provider or enrollee or subscriber of the health care service plan without first obtaining an authorization, except as specified. Existing law makes a violation of this provision, and related provisions relating to the handling of confidential medical information, subject to administrative, civil, and criminal penalties.

This bill would prohibit a health care business, as defined, from transmitting individually identifiable health information, as defined, to a site outside the United States, unless specified notice and authorization requirements are satisfied. *The bill would also require a person or entity that has contracted or subcontracted with a health care business to receive individually identifiable health information to*

*disclose to the business if any of the information will transferred outside the United States. The bill would prohibit a health care business from discriminating against an individual or denying an individual health care service because the individual has not consented to the transfer of individually identifiable information outside the United States. This bill would create a state-mandated local program by imposing the above-described penalties on persons who violate this provision.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Chapter 6.5 (commencing with Section 56.32)  
2 is added to Part 2.6 of Division 1 of the Civil Code, to read:

3

4 CHAPTER 6.5. DISCLOSURE OF MEDICAL INFORMATION BY  
5 HEALTH CARE BUSINESSES

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7 56.32. (a) For purposes of this chapter, a “health care  
8 business” means any ~~business organization, association, or~~  
9 ~~venture established to make a profit, or any private, nonprofit~~  
10 ~~organization, that collects or retains individually identifiable~~  
11 ~~health information about consumers in relation to medical care,~~  
12 ~~including but not limited to, all of the following:~~

13 ~~(1) Hospitals.~~

14 ~~(2) Physicians and other health care providers.~~

15 ~~(3) Health maintenance organizations.~~

16 ~~(4) Medical partnerships.~~

17 ~~(5) Emergency medical transportation companies.~~

18 ~~(6) Medical transcription companies.~~

19 ~~(7) Banks that collect or process medical billing information.~~

20 ~~(8) Any subcontractor or potential subcontractor of an entity~~

21 ~~described in paragraphs (1) to (7), inclusive. person or entity,~~

22 ~~whether established to make or profit or not, that collects or retains~~

1 *individually identifiable health information about individuals in*  
2 *relation to medical care, that is described below:*

3 (1) *An entity licensed pursuant to Division 2 (commencing with*  
4 *Section 1200) of the Health and Safety Code, other than an entity*  
5 *described in paragraph (2) or (3).*

6 (2) *An entity licensed pursuant to the Knox-Keene Health Care*  
7 *Service Plan Act of 1975 (Chapter 2.2 (commencing with Section*  
8 *1340) of Division 2 of the Health and Safety Code.*

9 (3) *An entity licensed pursuant to subdivision (f) or subdivision*  
10 *(g) or Section 1375.4 of the Health and Safety Code.*

11 (4) *A physician and surgeon licensed pursuant to Chapter 5*  
12 *(commencing with Section 2000) of Division 2 of the Business and*  
13 *Professions Code who is engaged in the business of providing*  
14 *health care as a sole proprietor.*

15 (b) For purposes of this chapter, “individually identifiable  
16 health information” has the same meaning as ~~in the federal Health~~  
17 ~~Insurance Portability and Accountability Act of 1996 (P.L.~~  
18 ~~104-191); the term “medical information” in subdivision (g) of~~  
19 ~~Section 56.05.~~

20 56.33. (a) *A person or entity that has contracted or*  
21 *subcontracted with a health care business to receive individually*  
22 *identifiable health information shall disclose to the health care*  
23 *business if any of the information will be transferred to a site*  
24 *outside the United States.*

25 (b) *No health care business, or person or entity that has*  
26 *contracted or subcontracted with a health care business, shall*  
27 *transmit individually identifiable health information to a site*  
28 *outside the United States unless all of the following apply:*

29 ~~(a)~~

30 (1) *The health care business discloses to the consumer*  
31 *individual at the time of enrollment and reenrollment, or in the*  
32 *case of a health facility, upon admission or as soon as practical*  
33 *after admission, that his or her individually identifiable health*  
34 *information may be transmitted to a site outside the United States.*

35 ~~(b)~~

36 (2) *The health care business obtains a consent acknowledgment*  
37 *form pursuant to Section 56.34 from the consumer, before a*  
38 *consumer relationship is established, individual whose health*  
39 *information is identifiable that his or her individually identifiable*

1 health information may be transmitted to a site outside the United  
2 States.

3 ~~(e)~~

4 (3) The consent of the ~~consumer~~ *individual* has been granted  
5 or renewed on at least an annual basis.

6 ~~(d)~~

7 (4) The ~~consumer~~ *individual* may revoke his or her consent in  
8 writing to the health care business at any time.

9 (5) *The obligations imposed on a health care business by this  
10 section are undertaken by the business itself and are not delegated  
11 to a physician and surgeon employed by, or contracted with, the  
12 health care business.*

13 56.34. ~~A~~ *Except for a request for health care services initiated  
14 by an individual seeking diagnosis or treatment outside of the  
15 United States, a health care business shall utilize a form, statement,  
16 or writing to obtain consent to transmit individually identifiable  
17 health information to a site outside the United States. The form,  
18 statement, or writing shall meet both of the following criteria:*

19 (a) Dated and signed by the ~~consumer~~ *individual whose health  
20 care information is identifiable.*

21 (b) Clearly and conspicuously discloses all of the following:

22 (1) By signing, the ~~consumer~~ *individual* is consenting to the  
23 transmission of his or her individually identifiable health  
24 information to a site outside the United States.

25 (2) The consent of the ~~consumer~~ *individual* must be renewed  
26 on at least an annual basis.

27 (3) The ~~consumer~~ *individual* may revoke his or her consent at  
28 any time.

29 (4) The procedure by which consent may be revoked.

30 56.35. *A health care business shall not discriminate against  
31 an individual or deny an individual health care service because the  
32 individual has not provided his or her consent pursuant to Sections  
33 56.33 and 56.34.*

34 SEC. 2. No reimbursement is required by this act pursuant to  
35 Section 6 of Article XIII B of the California Constitution because  
36 the only costs that may be incurred by a local agency or school  
37 district will be incurred because this act creates a new crime or  
38 infraction, eliminates a crime or infraction, or changes the penalty  
39 for a crime or infraction, within the meaning of Section 17556 of  
40 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California  
2 Constitution.

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